

## REMARKS

Claims 1-4 and 6-25 are pending in the application. Claims 1, 2, 6, 12 and 14-20 have been amended. Claim 5 was previously canceled without prejudice or disclaimer. Reconsideration of this application is respectfully requested.

The Office Action rejects claims 1-4 and 6-21 under 35 U.S.C 103(a) as unpatentable over U.S. Patent No. 6,754,885 to Dardinski et al., hereafter Dardinski, in view of U.S Patent No. 6,971,093 to Spring, hereafter Spring.

This rejection is traversed. Independent claims 1, 12 and 18 have been amended. For example, amended independent method claim 1 recites:

“operating a source control system on a computer that is coupled via a network to a controller that communicates with one or more devices to provide process control, wherein said source control system comprises a plurality of source control levels that includes first and second source control levels to control versioning of objects used by said controller to provide said process control;

receiving a selection of one of said first and second source control levels;

enabling in said source control system said selected source control level; and

automatically or manually setting a version number of a first object of said objects, depending on said selected and enabled source control level, wherein said first object is a control strategy loadable to said controller to provide said process control.

Dardinski disclose a single source control level and not a plurality of source control levels as recited in each of the steps. Dardinski does not receive “a selection of one of said first and second source control levels”. Dardinski does

not enable the "selected source control level". Dardinski does not "automatically or manually setting a version number of a first object of said objects, depending on said selected and enabled source control level".

The Examiner admits that Dardinski does not disclose the automatically or manually setting step, but contends that Spring does, citing Spring's column 9, lines 16-59. In particular, the Examiner contends in paragraph 4(a) of the Office Action that Spring discloses a "base" control level in which version numbers are assigned manually, column 9, lines 16-37, and an "advanced" control level in which version numbers are assigned automatically, column 3, line 47 to column 4, line 49, and column 9, lines 38-59.

This contention is untenable. The column 3, line 47 to column 4, line 49, describes automatic numbering to avoid the "tedium and errors associated with manual methods". This teaches away from a source control level that uses manual version numbering.

Spring discloses a method 301 for developing and releasing new versions of a core module in Fig. 3a and column 9. At column 9, lines 16-37, Spring describes step 304 that forms mapping of data structures to version numbers that increase or decrease with time. At lines 16 and 17, it is stated that "in one embodiment new composite version numbers are assigned manually", hereafter the line 16 embodiment. At lines 37 and 38, it is stated that "in one embodiment, the minor version number is changed automatically", hereafter the line 38 embodiment. At lines 47-48, it is stated that in one embodiment, the mapping is formed automatically once the composite version number is assigned", hereafter the line 47 embodiment.

Thus, Spring describes three different embodiments for the performance of the mapping step 304. The line 37 embodiment deals only with minor version numbers and must be used as part of a major version numbering control. Thus,

according to the Examiner's contention it could be used in combination the manual number assignment of the line 16 embodiment. However, Spring has no teaching to use them selectively. Thus, there would be a single composite embodiment that uses manual assignment for major numbers and automatic assignment for minor numbers. Therefore, the combination of lines 16 and 37 embodiments does not supply Dardinski's deficiency of receiving, enabling and automatically or manually setting steps of independent claim 1.

The line 48 embodiment deals only with automatic assignment of version numbers and is not disclosed as useable in any way with the line 16 embodiment of manual assignment.

At lines 50-53, Spring describes a later step 306 of method 301 as using a tool (hereafter the line 50 tool) that uses the mapping of step 304 to automatically assign to an interacting module the earliest version number that accurately expresses compatibility with the core module. However, Spring does not disclose receiving a selection of one of the line 16 embodiment and the line 50 tool. Thus, the combination of Spring's line 16 embodiment and line 50 tool are always used together and not on a selective basis. Therefore, the combination of Spring's line 16 embodiment and line 50 tool does not supply Dardinski's deficiency of receiving, enabling and automatically or manually setting steps of independent claim 1. Therefore, independent claims 1, 12 and 18 and dependent claims 2-4, 6-11, 13-17 and 19-21 are unobvious over the combination of Dardinski and Spring

The Office Action suggestion to use Dardinski in combination with Spring is improperly based on the hindsight of Applicants' disclosure. Such hindsight reconstruction of the art cannot be the basis of a rejection under 35 U.S.C. 103. The prior art itself must suggest that modification or provide the reason or motivation for making such modification. In re Laskowski, 871 F.2d 115, 117, 10 USPQ 2d 1397, 1398-1399 (CAFC, 1989). "The invention must be viewed not

after the blueprint has been drawn by the inventor, but as it would have been perceived in the state of the art that existed at the time the invention was made." Sensonics Inc. v. Aerosonic Corp. 38 USPQ 2d 1551, 1554 (CAFC, 1996), citing Interconnect Planning Corp. v. Feil, 774 F. 2d 1132, 1138, 227 USPQ 543, 547 (CAFC, 1985).

The Examiner contends that Spring discloses automatically or manually setting a version number of a first object of said objects depending on said enabled level. This contention is erroneous. As noted above, Spring does not condition the use of manual or automatic assignment on a selected and enabled level of source control. In Spring, it is either manual, automatic or both without any capability of selection and enablement.

The Examiner further contends that motivation is supplied to correctly identify different versions of a software module as suggested by Spring, e.g., column 3, line 41 to column 4, line 49. As noted above, this citation describes automatic numbering to avoid the "tedium and errors associated with manual methods". That is, it teaches away from combining Spring and Dardinski.

The Examiner further contends that motivation is supplied to apply base and/or advanced control levels of source control, e.g., column 9, lines 16-59. This citation describes a method 301 for versioning core module numbers and interacting module numbers. The addition of interacting modules to Dardinski would radically change the operation of Dardinski. Moreover, there is no teaching or suggestion in the column 9 citation to use Spring's line 16 manual assignment with the automatic assignment of lines 37, 48 or 50 on a selective basis. For these reasons, there is no suggestion or motivation to combine Spring with Dardinski.

The arguments set forth above are fully applicable to amended independent claims 12 and 18.

For the reason set forth above, it is submitted that the rejection of claims 1-4 and 6-21 under 35 U.S.C. 103(a) is obviated by the amendment and should be withdrawn.

The Office Action rejects claims 22-25 under 35 U.S.C 103(a) as unpatentable over Dardinski in view of U.S. Patent Publication No. 2003/0156710 to Cronic, hereafter Cronic, and further in view of Spring.

Independent claims 22, 24 and 25 contain similar language to independent claim 1. For example, independent claim 22 recites:

“receiving a request for a control level of support for at least one control strategy for said process control;

determining whether a full control level of source control of a plurality of control levels of source control is licensed for said at least one control strategy;

determining whether an option for a basic control level of said plurality of control levels of source control is selected for said at least one control strategy;

setting said control level of support to full, if said full control level of source control is licensed; and

setting said control level of support to basic if said option is selected, wherein said at least one control strategy is loadable from said computer to said controller to provide said process control according to said at least one control strategy”.

Thus, independent claim 22 recites “a plurality of control levels of source control. Dardinski discloses a single level. Cronic discloses a program, but does not disclose any level of source control.

The Examiner admits that neither Dardinski nor Cronic discloses a plurality of control levels of source control including full control level and a base control level. The Examiner contends that Spring discloses a base level and an advanced level. However, as set forth in the discussion of independent claim 1, Spring discloses only a single level of control. That is, Spring's method 301 uses a single embodiment that is either (1) manual only or (2) manual and automatic only without any capability of a selection of either. Spring's system has one or the other but not both. That is, Spring has no ability to select or enable one of the two alternatives. There is no selective choice. Therefore, Spring does not supply the deficiency of Dardinski and Cronic.

For the reason set forth above, it is submitted that the rejection of amended claims 22-25 under 35 U.S.C. 103(a) is erroneous and should be withdrawn.

The Office Action rejects claims 1, 12 and 18 under 35 U.S.C 103(a) as unpatentable over Dardinski, in view of U.S. Patent No. 6,662,357 to Bowman-Amuah, hereafter Bowman-Amuah.

This rejection is traversed. As noted above, Dardinski does not disclose any of the steps of amended independent claim 1. In contrast, Dardinski uses a single level of source control to number the versions. Bowman-Amuah does not supply any of Dardinski's deficiencies.

The Examiner contends that Bowman-Amuah discloses the enabling step, citing column 63, lines 55-60. In particular, the Examiner quotes the first and second sentences of this citation as:

"Version control should be set up from the beginning. By delaying version control (i.e., an automated control level has been delayed), manual Version Control must be used (i.e., a manual control has been used)."

The parentheticals and underlines have been added by the Examiner. The parenthetical language added by the Examiner is misleading. The phrase, "by delaying version control", merely means that the user is choosing not to buy and install it. There is no implication that an automated version control is installed. When the citation is read without the Examiner's parentheticals, we note that the language is in reply to the question: "When should I set up version control?" at line 54. Bowman-Amuah's reply is that version control should be (purchased and) installed for use at the start of a project. If not so purchased at the start, manual version control must be used. This is merely a question and answer dialog and not a disclosure of any particular system. There is no description that "manual version control" is actually a part of Bowman-Amuah's system or of what the manual version control does. This citation merely discloses a system that uses manual version control only. Thus, Bowman-Amuah does not supply the enabling step that Dardinski lacks.

The Examiner contends that Bowman-Amuah discloses a plurality of source control levels (e.g., a base control level in which version numbers are changed manually) and an advanced source control level in which version numbers are changed automatically, citing column 63, lines 22-60, and column 62, line 60, to column 63, line 3. Bowman-Amuah mentions a variety of features of version control tools, but does not disclose or teach a source control system that comprises first and second source control levels. Bowman-Amuah is merely describing different version control systems that one could buy and install. Thus, Bowman-Amuah does not supply the plurality of source control levels that Dardinski lacks.

The Examiner contends that Bowman-Amuah discloses the step of automatically or manually setting a version control number depending on the selected and enabled source control level. As discussed above, Bowman-

Amuah does not disclose a system that has (1) first and second source control levels and (2) a "selected and enabled source control level".

In response to the question of what to add to version control, Bowman-Amuah identifies stages to be added according to the development approach and "should also be automated". There is no description of what and how automation will be used and its operation. There is no description of a system that has both manual and automatic control levels, that enables one of these control levels from a selection thereof and automatically or manually sets version numbers depending on which control level is enabled as recited in amended independent claims 1, 12 and 18. Therefore, Bowman-Amuah does not supply the deficiency of Dardinski.

For the reason set forth above, it is submitted that the rejection of claims 1, 12 and 18 under 35 U.S.C. 103(a) is obviated by the amendment and should be withdrawn.

The Office Action rejects claims 22, 24 and 25 under 35 U.S.C. 103(a) as unpatentable over Dardinski in view of Cnonce and further in view of Bowman-Amuah.

With respect to independent claim 22, the Examiner admits that neither Dardinski nor Cnonce "discloses a plurality of control levels of source control including a full control level and a basic control level", but contends that Bowman-Amuah does citing column 63, lines 22-60 and column 62, line 60 to column 63, line 3. This contention is erroneous for the reason set forth in the above discussion of the rejection of claim 1 as unpatentable over Dardinski in view of Bowman-Amuah.

Moreover, the Examiner contradicts the admission, by contending on page 21 that Cnonce discloses "receiving a request from a user for a control level of



support", "a full control level of support", and "a basic control level of support". The Examiner's admission is correct. Cronicc discloses a program, but does not disclose any control levels of support. Therefore, Cronicc does not disclose any of the steps listed by the Examiner on page 21. Accordingly, Cronicc does not supply any of the deficiencies of Dardinski.

With respect to independent claim 24, the Examiner admits that neither Dardinski nor Cronicc "discloses a plurality of control levels of source control including a full control level and a basic/none control level", but contends that Bowman-Amuah does citing column 63, lines 22-60 and column 62, line 60 to column 63, line 3. This contention is erroneous for the reason set forth in the above discussion of the rejection of claim 1 as unpatentable over Dardinski in view of Bowman-Amuah.

Moreover, the Examiner contradicts the admission, by contending on page 22 that Cronicc discloses "receiving a request from a user to change a control level", "a full control level", "a change from none to basic", and "a change from basic none". The Examiner's admission is correct. Cronicc discloses a program, but does not disclose any control levels of source control. Therefore, Cronicc does not disclose any of the steps listed by the Examiner on page 22 and 23. Accordingly, Cronicc does not supply any of the deficiencies of Dardinski.

With respect to independent claim 25, the Examiner admits that neither Dardinski nor Cronicc "discloses a plurality of control levels of source control including a full control level and a basic control level", but contends that Bowman-Amuah does citing column 63, lines 22-60 and column 62, line 60 to column 63, line 3. This contention is erroneous for the reason set forth in the above discussion of the rejection of claim 1 as unpatentable over Dardinski in view of Bowman-Amuah.

Moreover, the Examiner contradicts the admission, by contending on page 24 that Cronce discloses "receiving a request from a user for a control level of support", "a full control level of support", and "a basic control level of support". The Examiner's admission is correct. Cronce discloses a program, but does not disclose any control levels of support. Therefore, Cronce does not disclose any of the steps listed by the Examiner on page 24. Accordingly, Cronce does not supply any of the deficiencies of Dardinski.

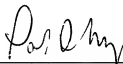
For the reason set forth above, it is submitted that the rejection of amended claims 22, 24 and 25 under 35 U.S.C. 103(a) is erroneous and should be withdrawn.

It is respectfully requested for the reasons set forth above that the rejections under 35 U.S.C. 103(a) be withdrawn, that claims 1-4 and 6-25 be allowed and that this application be passed to issue.

For the reasons set forth above, it is submitted that this amendment places the application in condition for allowance. Accordingly, it is respectfully requested that this application be allowed and passed to issue. If this amendment is deemed to not place the application in condition for allowance, it is respectfully requested that it be entered for the purpose of appeal.

Respectfully Submitted,

Date: 3/13/03



Paul D. Greeley  
Reg. No. 31,019  
Attorney for Applicant  
Ohlandt, Greeley, Ruggiero & Perle, L.L.P.  
One Landmark Square, 10<sup>th</sup> Floor  
Stamford, CT 06901-2682  
(203) 327-4500